CIOMA California Independent Oil Marketers Association
3831 North Freeway Blvd., Suite 130 • Sacramento, CA 95834-1928 • Tel. (916) 646-5999 • Fax (916) 646-5985

August 18, 2000

Mr. Dean Simeroth
Chief, Criteria Pollutants Branch
CARB
P.O. Box 2815
Sacramento, CA 95812

Subject: CARB Phase III Gasoline Regulations & Impacts.

Dear Mr. Simeroth:

Thank you for the opportunity to comment on regulations that have a direct and economic impact on the California independent oil marketing community. Attached is a list of concerns prepared by CIOMA in advance of the July 24th ARB meeting on Phase III regulations. Those comments remain valid concerns, and we hereby enter them into the record, but we would like to voice our heightened concerns after hearing testimony and presentations at the July 24 meeting.

The presentation by WSPA further confirmed our fears regarding the timely and economic supply of fuels in this state's intricate and sensitive fuel distribution system. The testimony put validity into casual comments we have heard about how state refiners are going to approach the supply of Phase III compliant fuels. Specifically, the testimony confirmed our fears that the elimination of MTBE in fuels, a goal in which we conditionally concur, will lead to a non-fungible fuel supply. This has several significant, adverse ramifications for our members:

- The distribution of non-fungible fuels could lead to serious shortages and even fuel outages depending on where and when various fuel types are scheduled to be delivered. As you are well aware, our members are seriously and negatively impacted by fuel shortage situations that result in wholesale price run-ups and decreases of supply to our members, since refiners give preferential supply treatment to their branded, direct-delivered outlets during these situations.
- The development of non-fungible fuel supplies could add further impetus to the practice of direct-delivered supplies. As refiners encounter the potential difficulties and uncertainties in trying to deliver non-fungible fuels through common-carrier pipelines, a logical alternative is to arrange of direct fuel supply by dedicated fleets. Our marketer membership has declined by about 40% in the last 10 years. Coincidentally, the amount of branded direct-delivered gasoline has risen -- approximately 80% is now direct-delivered. The Phase III regulations will add more economic incentive, if there isn't enough already, to further reduce the roll our members provide in the state's fuel distribution system.
- This situation could lead to the curtailment of unbranded fuels, a key source of supply for our members and small-batch fuel purchasers such as agriculture, emergency services, hospitals, local government and schools. The ability to store and deliver compliant unbranded fuels that are non-fungible, and contain differing volatility characteristics, will be made significantly more complicated and expensive, possibly leading to the elimination of unbranded fuels.

- o With several fuel types being offered, our members who survive will have to provide significant capital improvements in dedicated tankage, pumping and delivery vehicles, not to mention management costs related to increased paperwork, monitoring and product control requirements.
- o Finally, our members could incur significant liability under product quality and environmental protection penalties. For example, what effect will the different fuels have on truck and tank seals, and will our members be penalized for failures related to unknown mixtures effects on these components? Even more complicated is what liabilities could be incurred under the new vapor recovery requirements, where new technology has yet to be tested or certified on an unknown range of fuel types?

ARB must thoroughly examine the issues related to Phase III fuels and their potential impact on the independent oil marketer class of trade. We recommend the following:

1. ARB commission a third-party study of the potential financial impacts of Phase III implementation on independent oil marketers, including all the impacts raised in our two communications. This study should be completed by no later than April of 2001.
2. The California Energy Commission prepare an analysis of the impact of Phase III requirements, including scenarios of non-fungible fuel supply, on all fuel supply in the state, with special attention to the plight of unbranded fuels.
3. The California Energy Commission immediately begin a review of its Fuel Contingency Plan to determine if it includes sufficient provisions to meet crisises encountered under a non-fungible fuel supply condition. This review should include recommendations regarding new or increased powers to allow over-ride of Phase III requirements in times of adverse supply conditions. This review should be accomplished before the end of 2000, allowing legislation to be drafted and introduced in the 2001 legislative session.
4. Cal/EPA should develop an examination of all potential fuel quality and environmental quality liabilities fuel wholesalers and retailers might encounter under a non-fungible, multi-type fuel supply condition, and how those liabilities can be rectified so that parties not responsible for the requirements are not held liable for their adverse effects.
5. ARB should request that the Attorney General monitor competitive behavior during the introduction of Phase III fuels to determine if there are anti-competitive practices developing which might adversely affect the ability of our members to compete and remain a viable market force in petroleum wholesaling and retailing.

We urge the Air Resources Board staff to develop a full understanding of the implementation impacts related to Phase III regulations and report those findings to the Board and Cal/EPA in a timely manner.

Sincerely,

Jay McKeeman, Executive Vice President

Cc: Alan Lloyd, Chair, CARB
Winston Hickox, Secretary, Cal/EPA

California Independent Oil Marketers Association

3831 N. Freeway Blvd., Suite 130 • Sacramento, California 95834 • 916-646-5999

Petroleum Marketer Concerns About CaRFG III Regulations

The California Independent Oil Marketers Association (CIOMA) is very much concerned about several aspects of the California Air Resources Board's Phase III Reformulated Gasoline regulations. Our members believe that these regulations will reduce both the sources of gasoline supplies as well as the overall amount of gasoline available, especially for unbranded retail and wholesale sale or consumption. We urge the staff and appointed members of the California Air Resources Board to amend the current regulations to address key issues that will affect the supply, distribution, and price of gasoline to consumers. These issues include:

Sufficient Availability of Gasoline Supplies to All Consumers

- Refinery operational problems and insufficient alternative sources of supply have increased the frequency of supply shortfalls
- These supply shortfalls have markedly decreased the amount of gasoline available for unbranded sales to retail or wholesale consumers and have resulted in far higher than normal prices for these consumers
- Current industry and government estimates indicate that supplies of gasoline may be further reduced by the implementation of CaRFG III regulations
- State officials must ensure that sufficient supplies of unbranded gasoline are available for unbranded consumer usage, particularly government and commercial unbranded gasoline consumers
- CARB & CEC should conduct thorough studies to fully determine the full spectrum of gasoline products that will be produced and if the amounts of production anticipated by in-state refineries will meet both branded retail and unbranded retail and wholesale demand

Fungibility of Gasoline Products

- Some refiners have indicated they will produce both oxygenated and non-oxygenated gasoline for sale in California
- CEC & CARB must determine if fungibility issues will arise with storage and transport of these fuels and if all fuels marketed in California will be available to both retailers and wholesale petroleum marketers
- These agencies should outline in a report with aggregate information how the California refining industry plans to meet the demands for CaRFG III oxygenated gasoline, CaRFG III non-oxygenated gasoline, Las Vegas & Arizona specification gasoline, and federal RFG specification gasoline
- This report also should identify sources and anticipated distribution or blending methods for ethanol-blended gasoline

Drivability Issues

- If refiners choose to produce CaRFG II without oxygenates, questions arise about the need for alternative octane boosters to ensure CaRFG III will not create drivability problems, particularly in high altitude areas
- CARB & CEC also should release information about the fuel economy effects of CaRFG III
- Emissions impacts should include any additional amounts of gasoline needed to meet current fuel economy ratings

Variance Procedures

- CARB should amend the current variance procedure to enable non-refiners to import gasoline when significant refinery operational problems create insufficient supplies of gasoline based on historic seasonal demand
- Under current variance procedures only refiners are able to bring non-specification gasoline into California due to variance procedure requirements to demonstrate when the entity seeking a variance will be able to comply with the CARB RFG regulations
- CARB should work with non-refiner industry representatives and environmental groups to develop an alternative means of addressing substantial supply shortfalls